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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,651	03/30/2001	Scott J. Tuman	54407USA6B.006	9447

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EXAMINER

TSOY, ELENA

ART UNIT	PAPER NUMBER
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1762

14

DATE MAILED: 03/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/822,651

Applicant(s)

SEIDEL ET AL.

Examiner

Elena Tsoy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-48 and 50-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-48, 50-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Response to Amendment

1. Amendment filed on January 16, 2003 has been entered. Claim 49 has been cancelled.
Claims 21-48, 50-55 are pending in the application.

Claim Objections

2. Objection to claims 40-42, 48 because of the informalities has been withdrawn.

Double Patenting

3. Objection to claim 49 under 37 CFR 1.75 as being a substantial duplicate of claim 48 has been withdrawn due to cancellation of the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. Rejection of claims 21, 22, 24, 25, 29, 30, 34, 36, 39 under 35 U.S.C. 102(e) as being anticipated by Lina (US 5,989,204) has been withdrawn.
6. **Claims 21-31, 33-35, 37, 39, 40, 42-48, 50-53, 55** stand rejected under 35 U.S.C. 102(b) as being anticipated by Thomas (US 5,586,371) for the reasons of record as set forth in Paragraph No. 5 of the Office Action mailed on October 16, 2002 (Paper No. 11).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 32, 41, 54** are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (US 5,586,371) in view of Murasaki (US 5,643,651) for the reasons of record as set forth in Paragraph No. 8 of the Office Action mailed on October 16, 2002 (Paper No. 11).

9. **Claim 36** is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (US 5,586,371) for the reasons of record as set forth in Paragraph No. 9 of the Office Action mailed on October 16, 2002 (Paper No. 11).

10. **Claims 38** is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (US 5,586,371) in view of Shepard et al (US 6,205,623).

Thomas further teaches that hooks may be formed on the same substrate from a melt material (See column 15, lines 26-35, 64-67; column 16, lines 1-4).

Thomas fails to teach that each stem of the plurality of stems comprises a mushroom head.

Shepard et al teach that hook-shaped fastener elements are functionally equivalent to mushroom head-shaped fastener elements for releasably engaging a loop material (See column 2, lines 22-24; column 6, lines 46-47).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used mushroom head-shaped fastener elements in Thomas instead of hook-shaped fastener elements since Shepard et al teach that hook-shaped fastener elements are functionally equivalent to mushroom head-shaped fastener elements for releasably engaging a loop material.

Response to Arguments

11. Applicant's arguments filed January 16, 2003 have been fully considered but they are not persuasive.

(A) Applicants argue that claims 21, 40 and 48 are not anticipated by Thomas (US 5,586,371) because the formed loops 22 contact and adhere to a substrate 24, not fuse to the substrate 24 as recited in the claims.

The Examiner respectfully disagrees with this argument. The loops 22 in Thomas are formed from a molten, preferably liquid material, which is supplied from a heated source, such as a heated pressure bar 72 (See column 5, lines 23-26); the **molten liquid** material is **forced** (pressed) into the apertures 56 by a doctor blade 74 as the print cylinder 60 is rotated about its centerline, the molten material is then extruded from the apertures 56 onto the substrate 24 in the desired pattern (See column 5, lines 29-66) so that formed loops are adhered to the substrate 24 (See column 5, lines 7-8). Considering the fact that stems in claimed invention are fused to a substrate by depositing a molten material to a non-molten substrate followed by pressing and forcing a molten material into cavities (See specification, page 7, lines 22+) and the loops 22 in Thomas are also formed by forcing (pressing) a molten material to a non-molten substrate, the loops 22 are also fused to the substrate.

(B) Applicants argue that claims 21, 40 and 48 are not anticipated by Thomas (US 5,586,371) because each of the loops 22 is attached to the substrate 24 as individual loop so that a web construction in Thomas does not have a plurality of discrete polymeric regions fused to the web and the plurality of stems extend from the discrete polymeric regions.

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The Examiner respectfully disagrees with this argument. Firstly, the loops 22 on the substrate in Thomas are fused with each other so that each of the loops 22 is attached to the substrate 24 **not** as individual loop, but as extending from “a polymeric region”, as shown in Figs. 2, 3. Secondly, there is a plurality of discrete polymeric regions on the substrate, as shown in Fig. 2 so that loops 22 extend from a plurality of “polymeric regions”. Also, the base of each hook can also be interpreted as “a polymeric region” so that hooks 34 extend from a plurality of “polymeric regions”, as shown in Fig. 2.

The Examiner Note: since a term “polymeric region” is not defined by the specification as filed, the term is given the broadest reasonable interpretation consistent with the specification.

It is held that during patent examination, the pending claims must be “given the broadest reasonable interpretation consistent with the specification.” Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969). The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. In re Cortright, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999).

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elena Tsoy whose telephone number is (703) 605-1171. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive Beck can be reached on (703) 308-2333. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

ET

Elena Tsoy
Examiner
Art Unit 1762

March 20, 2003


MICHAEL BARR
PRIMARY EXAMINER